IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

WP(C).No. 25594 of 2006(V)

PETITIONER:

M.ABDUL KHADER, S/O.SAIDHOOTTY,
AGED 47, MARUTHUNKAL HOUSE,
MADAKKARA P.O., NENMONY VILLAGE,
SULTHAN BATHERY TALUK, WYNAD.

BY ADV. SRI.SHAJI JOSEPH

RESPONDENTS:

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1. THE AUTHORISED OFFICER,
THE WYNAD DISTRICT CO-OPERATIVE BANK LTD.,
KALPETTA NORTH, WYNAD.

2. WYNAD DISTRICT CO-OPERATIVE BANK LTD.,
NO.4357, SULTHAN BATHERY BRANCH,
SULTHAN BATHERY P.O., REPRESENTED BY ITS
GENERAL MANAGER.

3. P.K.SAINUDHIN, S/O.D.M.MUHAMMAD KOYA,
LUCKY SPICES, LUCKY HOUSE, SULTHAN BATHERY,
WYNAD.

BY ADV. SRI.DEVAPRASANTH.P.J. FOR R1 AND R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).25594/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF JUDGMENT IN W.P.(C).5394/2004 DATED 23.11.2004.

EXT.P2- TRUE COPY OF THE STATUTORY NOTICE UNDER SECTION 13(2) OF SECURITISATION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST, DATED 15.3.2006 AGAINST THE PETITIONER.

EXT.P2(a)- TRUE COPY OF NEWS PAPER ADVERTISEMENT AGAINST THE 3RD RESPONDENT DATED 15.3.2006.

EXT.P3- TRUE COPY OF REPRESENTATION BEFORE THE RESPONDENTS FROM THE PETITIONER.

EXT.P4- TRUE COPY OF LETTER FROM THE 2ND RESPONDENT TO THE PETITIONER DATED 26.8.2006.

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 25594/2006

Dated this the 5th day of January, 2007

JUDGMENT

The third respondent availed a loan from the second respondent, bank. The writ petitioner was a guarantor. But the third respondent defaulted the payment of loan. The petitioner complaints that he also disposed of immovable properties because of which, the petitioner is being proceeded against by the respondents 1 and 2. It is, therefore, prayed that the liabilities, if any, may be re-fixed and an One Time Settlement Scheme may be allowed to be availed off by the petitioner, so that he could save the coercive action, being initiated by the respondents 1 and 2.

2. I heard the arguments advanced by the learned counsel for the respondents 1 and 2 as well as the counsel for the writ petitioner. A copy of the resolution, passed by the second respondent, bank, was produced by the counsel which show that an application of the writ petitioner, as

guarantor, had been considered. The loan transaction had been sought to be disposed of, after including the same under an One Time Settlement scheme. It is also further resolved that an amount of Rs.5,00,000/- already remitted, would be adjusted and the balance should be allowed to be remitted in ten monthly instalments.

3. The counsel for the writ petitioner submits that an amount of Rs.2,00,000/- had also been remitted, apart from Rs.5,00,000/-, remitted by the writ petitioner.

4. After hearing the submissions made by either side, I direct the second respondent, bank, to extend the facilities and benefits of One Time Settlement to the writ petitioner and fix the amount due to the bank. On deducting the amount, so far remitted by him, the balance amount shall be allowed to be remitted in ten equal monthly instalments. Orders to this effect shall be passed within one month from today. On receipt of such order, the writ petitioner shall make the payments, as directed in the order of the second respondent.

5. In the above facts situation, all coercive

action taken against the writ petitioner, shall stand stayed.

6. However, I make it clear that if the petitioner fails to make payments as per the order of the second respondent, in compliance of the directions contained in this judgment, the second respondent will be free to proceed against the writ petitioner, according to the law.

The writ petition is closed as above.

J.M.JAMES
JUDGE

mrcs